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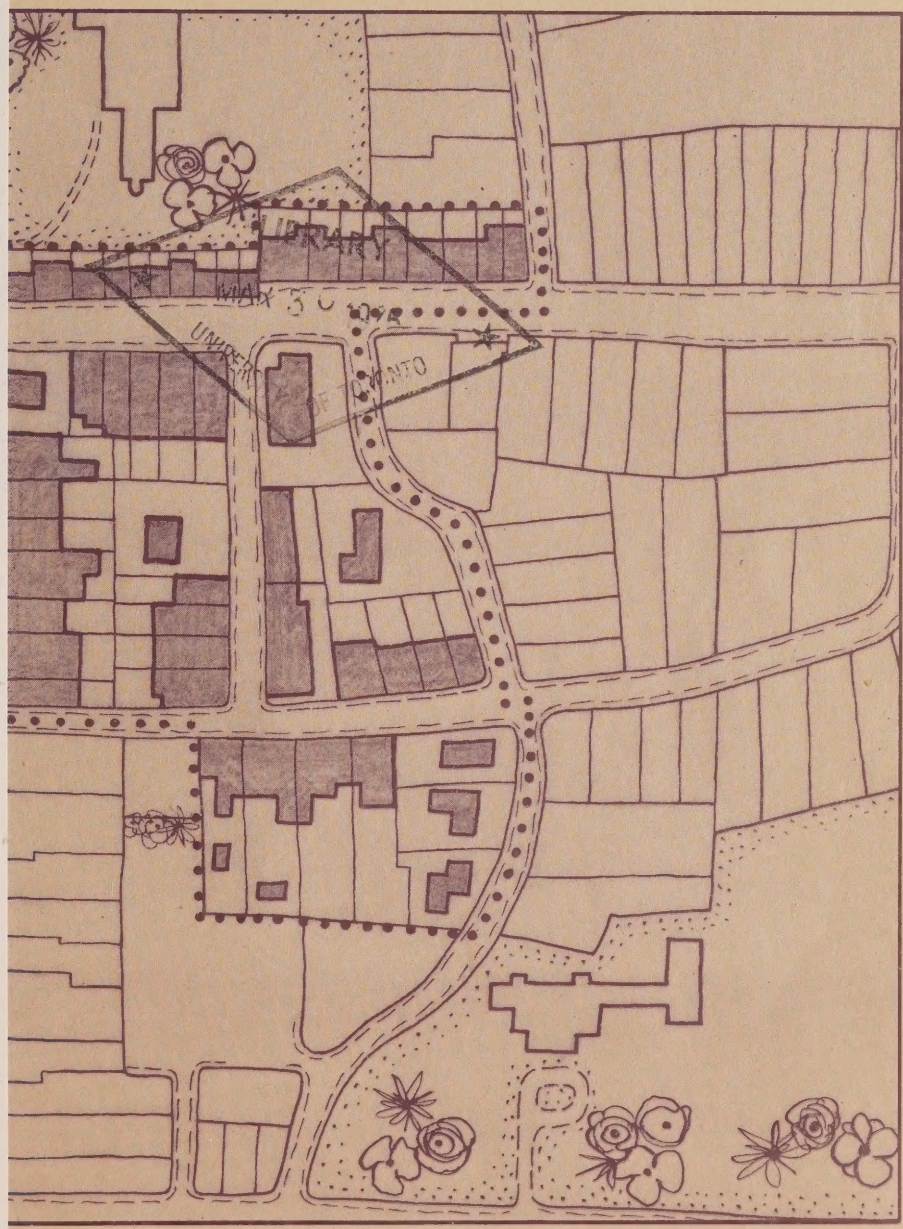
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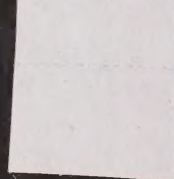
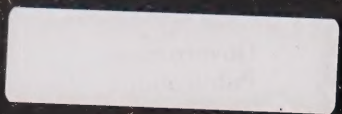
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Guidelines for the Designation of Heritage Conservation Districts

Government
Publications

Part V of The Act to provide for
the Conservation, Protection and
Preservation of Ontario's Heritage







Ministry of
Culture and
Recreation

Ontario

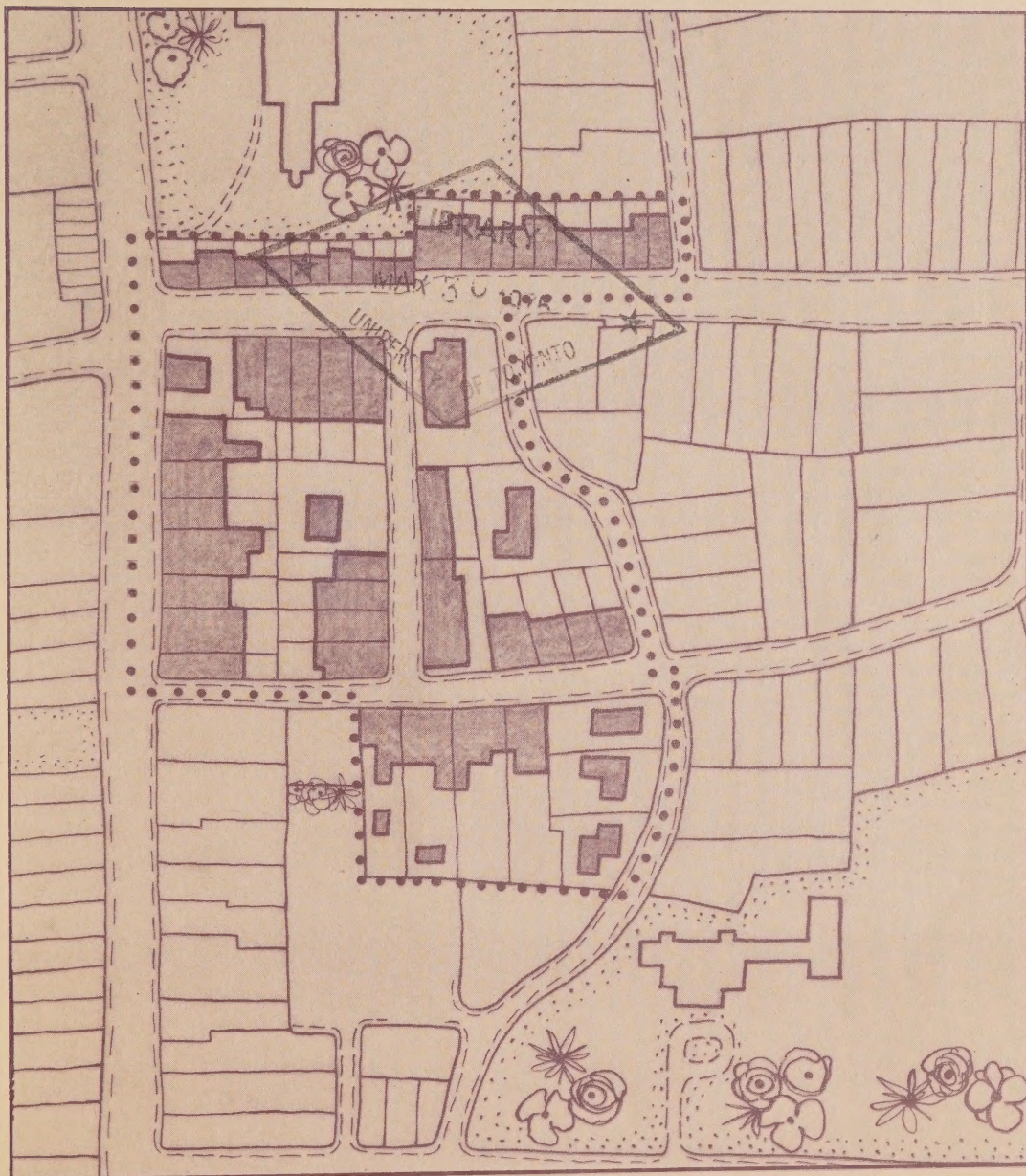
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Part V of The Act to provide for the Conservation, Protection and Preservation of Ontario's Heritage

Prepared by the

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Introduction

An Act to provide for the Conservation, Protection and Preservation of the Heritage of Ontario was proclaimed on March 5, 1975. The need for such legislation has been seen in a steadily growing public interest in Ontario's historic and architectural heritage during the last decade, particularly at the local level. Several municipalities have sought and obtained provincial legislation enabling them to control demolition of buildings of special significance.

Recognizing the merit of these concerns, the provincial government established the Ontario Heritage Foundation in 1967 to acquire historical buildings and administer them on behalf of the province. In addition a study was undertaken which analysed the province's historical background, identified conservation problems and recommended the general form of enabling legislation. A draft report in 1971, circulated to selected municipalities, historical societies, architectural conservancies and other interested bodies, drew overwhelming support for proposed conservation measures and the present legislation is the result.

The act also provides in part III (sections 24 and 25) for the creation of a Conservation Review Board in connection with architectural conservation. The review board is empowered to hold hearings and produce reports when a dispute arises between a municipality and the owner of a property designated by a municipality as being of importance either from a historical or an architectural point of view.

This pamphlet is intended as a guide to part V of the act, that part which enables municipalities to take action to conserve heritage districts which are considered of importance for historical and/or architectural reasons. It is not intended as a substitute for the legislation, but is to be used in conjunction with The Ontario Heritage Act, 1974.

THE HERITAGE CONSERVATION DISTRICT

1 Local Advisory Committee

A municipal council may pass a by-law to form a Local Architectural Conservation Advisory Committee of not fewer than five members to assist it on the designation of properties. As this subject is of a highly complex nature which merits continuous technical advice, it is strongly recommended that such a committee be established immediately council decides to develop conservation policies. (section 28)

While it is not covered in the act, council would also be well advised before it takes any other action to ask its local advisory committee to prepare a detailed résumé of those areas within the municipality which it feels should be designated as Heritage Conservation Districts. The résumé should contain not only the location of the district but also sufficient reason for such designation. This would include an architectural description of the buildings, the historical role of the area in the development of the community, etc.

2 The District Character

In addition to buildings which are of clearly demonstrated historic significance, there will be others which individually may not be worthy of being considered for protection but which, taken as a group, provide a living example of the historical or architectural heritage of the community in which they are situated. Such buildings will usually be located in the older parts of the municipality, where they may provide an outstanding example of period architecture or they may be built in a style which reflects architectural features unique to the community or region.

The criteria for selection of such districts cannot be precisely defined. Neither is it possible, nor indeed desirable, to state what the geographical extent of such districts should be. However, a Heritage Conservation District should contain some or all of the following characteristics:

- a) the majority of the buildings should reflect an aspect of the historic heritage of a community by nature of historical location and significance of setting.
- b) the majority of the buildings should be of an architectural style or construction, significant historically or architecturally to the community, region or province.
- c) the district may contain other important physical, environmental, or aesthetic characteristics which in themselves do not constitute sufficient grounds for the designation of a district, but which lend support in evaluating the criteria for designation.

3 The District Size

In extent, a Heritage Conservation District may embrace any or all of the following:

- a) the area surrounding a small group of buildings and their setting. An example of this would be the establishment of a small district around one or more buildings of importance which would probably be individually designated, as a means of safeguarding and enhancing the settings of those buildings.
- b) a larger area which could range from a city block to part or all of a neighbourhood. Such an area may include a small town's main street, an inner city residential area, or a university precinct.
- c) whole communities of outstanding historical and architectural significance. An example of this is Niagara-on-the-Lake, but many small rural villages could also fall within this category.
- d) scattered groups of buildings and their settings. Such areas might include buildings along a historical transportation route, or the remnants of a historical community which has since been extensively redeveloped.

THE DISTRICT STUDY AND ITS DESIGNATION

1 The Procedures

The procedures established in the legislation for the designation of Heritage Conservation Districts are as follows:

Step 1: Following consultation with the Local Architectural Conservation Advisory Committee, if established, the municipality passes a by-law under section 40 of The Ontario Heritage Act, 1974, indicating the areas which it considers may be worthy of designation, guided by the criteria previously outlined.

Step 2: A Heritage Conservation District study is then prepared for each area by the local planning personnel or hired consultants approved by council.

Step 3: The Heritage Conservation District study is accepted by the municipal council as the basis for the preparation of an official plan amendment.

Step 4: An official plan amendment containing policies and programs based on the proposals of the Heritage Conservation District study is prepared and submitted for approval. Such policies could form part of any new official plan in preparation for an area where none exists.

Step 5: The approval of the Minister of Housing is obtained for the official plan amendment.

Step 6: Finally, an implementing by-law under section 41 of The Ontario Heritage Act, 1974, designating one or more Heritage Conservation District areas, would be prepared and adopted by council and submitted for the approval of the Ontario Municipal Board.

It should be noted that section 40, subsection (1) of The Ontario Heritage Act, 1974, states that: "The council of a municipality may by by-law define the municipality or one or more areas thereof as an area to be examined for future designation as a Heritage Conservation District and the council may, after such examination is completed, prepare official plan provisions with respect to such designation".

At the present time, it is considered that no official plans contain such provisions. It will therefore be necessary for any municipality wishing to designate an area as a Heritage Conservation District to follow all of the steps outlined above.

2 Content of Heritage Conservation District Study

In appendix A, the basic form and content are set out for the studies envisaged for the selection and designation of Heritage Conservation Districts.

All properties within the study area should be carefully examined during the study preparation to determine whether the properties should be designated under part IV or V of the legislation. No property can be designated under both parts at the same time. The legislation provides a higher degree of protection for a property designated specifically under part IV than one designated as part of a district under part V. For example, the building interior may be protected with a specific designation but not with district designation. If council decides to designate a specific property within an area which has been designated a Heritage Conservation District, it will be necessary to delete that property from the district and follow the normal designation procedures in part IV.

It should be stressed that a heritage conservation study is basic to the designation process to ensure the objectives of the legislation are being met and that a municipality is not merely trying to use these new protective measures as a device to stem development in areas that have no particular architectural or historic merit.

3 Content of the Official Plan Amendment

Following council's adoption of the Heritage Conservation District study, an official plan amendment incorporating the proposals of the Heritage Conservation District study is prepared. This amendment would be subject to the normal requirements of The Planning Act. The process will include public meetings, recommendations from the planning board, if one exists, adoption by council, and finally, approval by the Minister of Housing.

In appendix B, the suggested content of the official plan amendment is outlined. It is envisaged such an amendment would be in the nature of a detailed secondary plan, establishing land uses and densities, but concerning itself primarily with statements of objectives and policy. In addition, some means of implementing the envisaged program should be incorporated. Supportive material contained in the study report should be submitted as an appendix to the amendment. The policies of the amendment to the official plan must be approved by the Minister of Housing.

4 The Implementation By-laws

Following approval of the official plan amendment, council may designate any defined area as a Heritage Conservation District by passing a by-law under section 41 of The Ontario Heritage Act. This by-law will provide, with the approval of the municipal council, for the issuance of a permit to a person who wishes to erect, demolish, remove or alter the external portions of any structure within the designated district. The term "external appearance" should be defined to include the composition, colour and texture of building material and type and character of doors, windows, gates, fences, signs, light fixtures, etc.

The by-law should also provide that any designated property is a permitted use in any zone as indicated in the official plan provisions. Thus, the introduction of designated properties which do not conform to the provisions will not present a problem, and they can be adequately protected and altered if necessary, regardless of restrictive or prohibitive regulations which might otherwise apply.

In addition to the above, some Heritage Conservation Districts will be subject already to existing zoning provisions under section 35 of The Planning Act. Such provisions will regulate matters such as land use, density and development standards of height and bulk, etc.

Council should carefully examine any existing zoning provisions against the Heritage Conservation District policies it has adopted in its approved official plan.

If it is felt necessary to amend the zoning by-law, under existing section 35 of The Planning Act, such an amendment should be processed at the same time as the by-law under section 41 of The Ontario Heritage Act is passed by council. For expediency in administration procedures, it is suggested both by-laws be submitted simultaneously to the Ontario Municipal Board, preferably when the official plan amendment is submitted to the Minister of Housing.

If council wishes, it can combine the provisions of the two by-laws to form one. This technique may be of particular benefit when proposed Heritage Conservation District areas are not subject to existing zoning provisions.

Whichever form is adopted, the implementation by-laws should make reference to section 35 of The Planning Act and section 41 of The Ontario Heritage Act. The by-laws have to be submitted to the Ontario Municipal Board and subsequently approved before the area is officially designated a Heritage Conservation District.

BUILDING CONTROL

It is necessary for the owner of a property designated under any part of the legislation to obtain permission before carrying out any building or site works. This requirement applies whether the property is designated or is part of a Heritage Conservation District.

1 Application Procedures

(a) Altering a Building

An owner of property within a designated Heritage Conservation District is required to submit an application to the municipal council for any works required under the by-law. The municipal council is required to issue a decision within 90 days of the acknowledgement of the receipt of the

application. Failure to issue a decision within this time period permits the applicant to appeal to the O.M.B., but the council and the applicant may agree to extend the time period.

If a municipal council has appointed a Local Architectural Conservation Advisory Committee, council is required by the legislation to consult with the committee prior to making a decision.

The decision made by council may:

- a) permit the proposed works
- b) refuse to permit the proposed works
- c) permit the proposed works subject to such conditions as council considers desirable. For example, it may be beneficial to require the approval of public works such as the location or relocation of hydro wires, road signs, road improvements and all forms of street furniture.

In the case of a council's refusal to permit the proposed works, or where the applicant is not satisfied with the conditions imposed, the applicant may, within 30 days of receipt of the decision, appeal to the Ontario Municipal Board.

(b) Demolishing a Building

In the case of an application to demolish a building within a Heritage Conservation District, the municipality shall, within 90 days, with provision for extension of time, decide either:

- a) to permit the demolition, or
- b) to refuse to permit the demolition.

The municipality can prohibit the demolition for a period not to exceed 180 days from the date of its decision not to issue the demolition permit. During this period, the municipality shall endeavour to take steps to preserve the building through expropriation or other means. If no solution is found following the 180 day period, the municipality is required to issue a demolition permit.

2 New Construction

New construction within a Heritage Conservation District must be approved by the Municipal Council. Buildings should be in sympathy with the character of the district. Scale, surface materials, fenestration and colour should all be compatible or offer an interesting contrast to existing structures. Generally new buildings imitating an older style should be discouraged in favour of fine example of modern architecture.

PROVINCIAL ADVISORY SERVICE

Further advice and assistance on all aspects of Heritage Conservation Districts may be obtained from the Plans Administration Division, Ministry of Housing, 56 Wellesley Street West, Toronto, (Tel. 416/965-3065) and Ministry of Housing Field Offices. Advice on other parts of the legislation can be obtained from the Ministry of Culture and Recreation, 77 Grenville Street, Toronto. (Tel. 416/965-7635).

OTHER ASSISTANCE

The Ontario Heritage Foundation stands ready to offer assistance in the planning of and to some extent, the cost of the Heritage Conservation District Study. Inquiries should be addressed to the Chairman, Ontario Heritage Foundation, 6th Floor, 77 Grenville Street, Queen's Park, Toronto M7A 1E8. (Tel. 416/965-5727).

APPENDIX A

Form & Content of Heritage Conservation District Studies

1 Preparing for the Study

It is strongly recommended that a **Local Architectural Conservation Advisory Committee** composed of not fewer than five members, should be established under section 28 of The Ontario Heritage Act, 1974, when council first decides to develop conservation policies and implementation procedures. It is also recommended that members of the committee be chosen from local civic, historical, and architectural societies or other related bodies where they exist, so that the members possess differing skills and interests complementary to general conservation aims. They will advise and assist council in all matters relating to architectural conservation and will act on a part-time basis.

A full-time professional **Study Team** should also be formed composed of local planning staff, planning consultants or a combination of both. Their responsibilities will be to carry out the actual study and to prepare the conservation policies and necessary implementation procedures, to consult with the Local Architectural Conservation Advisory Committee and other related professions and groups, to conduct citizen participation exercises and to present recommendations to council for consideration.

A **Study Methodology** indicating the various stages in the policy formulation should be prepared by the study team and agreed to by council, prior to commencement of the study.

The methodology may change, dependent on the special circumstances and priorities of a particular municipality or study.

However, each study should generally provide for the active participation of individuals, groups and local societies whose involvement should be encouraged as soon as the study commences. Public exhibitions could be held at appropriate

times during the collection and analysis of the study information. Exhibition material might include the use of maps, photographs, annotated diagrams and sketches. Questionnaires could be introduced to invite public comment. The final report should reflect these illustrative techniques and be made available for public comment.

A point by point summary of the general function, form and content of a study is suggested below. *It is not intended that this framework be followed rigidly but rather that it should act as a reference to guide municipalities in the preparation of conservation policies.*

2 How to Select Heritage Conservation Districts

Examine Suitable Areas

- consider historical and architectural growth of municipality, including reference to local/regional context.
- identify and examine “heritage” resources.
- review preliminary selection of proposed Heritage Conservation Districts, their extent and relation to adjacent areas.

Set Priorities

- establish priorities among the Heritage Conservation Districts chosen for detailed study.

3 Elements to be Included in the Detailed Heritage District Study

(i) Support Criteria

Land Use

- determine existing land use patterns.
- identify conforming & non-conforming uses.
- note vacant sites and suggest possible uses.

Movements

- evaluate the total movement system, i.e. vehicular and pedestrian, egress and ingress points, parking, garaging, service areas, public transport, historic routes and associated street furniture.

Building & Site

- note individually designated buildings.
- identify their architectural significance via building styles, materials, construction, height, forms, etc.
- identify historical significance — past owners, inhabitants, etc.
- identify uses and unique features within the building or exterior to it.

Condition

- determine age and structural condition of buildings.
- evaluate associated topographical features.
- estimate degree of maintenance necessary.

Ownership

- determine ownership of all land within the district.
- determine property ownership and occupancy status (owner-occupied, tenancy).
- indicate property values (market value, rents, etc.).

Visual Quality

- analyse all topographical features with particular reference to significant building groups, their spatial relationship, advantageous viewpoints, etc.
- identify associated and beneficial topographical features (vegetation, open spaces, surfacing textures, ponds, walls, fences, street furniture, etc.).
- take account of all factors which intrude and are of detriment to the visual and functional quality of the district (unorganized car parking, advertisements, unharmonious colours, unpleasant odours).

Commitments

- identify approved or pending plan policy, i.e. official plan (amendments) zoning by-laws, etc.
- federal/provincial/municipal schemes, e.g. improvement, traffic schemes.
- note development activity, i.e. buildings under construction, issued building permits, etc.

Recent Trends

- restoration and upgrading of properties by public/private investment.
- general street improvement.
- adverse effects of tree removal, spread of public utility services.

Illustrations

- prepare maps, annotated diagrams, photographs and sketches showing the collected information and its advantageous or adverse effects.
- prepare plans illustrating long term plan programme alternatives.

(ii) Policy Proposals

Prepare plan illustrating the council's adopted long term comprehensive planning intentions supported by your report of survey and statement of intention to include:

- identify the methods and priorities in which properties are to be retained, removed, repaired, improved or changed in some way compatible to the conservation aims.
- state policies to be applied to other features and factors of a topographical nature and associated environmental quality.

Financial Support

- the methods of financing the proposals whether through public, private or a combination of the two.
- describe the grants available and their priority of advancement.

Implementation

- municipal reaction to their own properties or those to be purchased or leased.
- agreement with property owners.
- council improvements within the general Heritage Conservation District.
- clarify 'permit issuance' and development control policies.

APPENDIX B

Content of Official Plan (Amendment)

The amendment should be based on the Heritage Conservation District study (appendix A) in the form of a written statement outlining general policy objectives and implementation procedures, supported by illustrative material in the appendix.

Policy Objectives

- clearly stated objectives of the municipality's aims in the Heritage Conservation Districts to be designated.
- the criteria necessary to determine the form and character of the districts e.g. development of vacant properties, redevelopment of existing properties, building alterations and demolition.
- policies on the acquisition of property.
- procedures for the review and evaluation of the districts.

Implementation

- statement on means of implementation, i.e. council's intended method of preparing implementation by-laws via section 35 of The Planning Act and section 41 of The Ontario Heritage Act.
- the methods of how monies will be determined and advanced to implement the policies.

Illustration

- a plan indicating the precise location and boundaries of the Heritage Conservation Districts council intend to designate.

NOTE:

In the majority of cases, an official plan amendment must be approved before council can designate an area as a Heritage Conservation District. An amendment may incorporate more than one area. The only exception would be when a new official plan is prepared. However, in such circumstances, the detailed studies outlined in appendix A must be carried out and included in the official plan documents which are submitted for approval.

